

REMARKS

Claims 1-24 are pending in the application.

Claims 1-24 have been rejected.

Rejection of Claims Under 35 U.S.C. §103

Claims 1-4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 7,136,062 issued to Butler et al. (hereinafter referred to as “Butler”), in view of U.S. Patent 7,065,637 issued to Nanja et al. (hereinafter referred to as “Nanja”). Claims 5-14 and 18-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Butler, in view of Nanja, and further in view of U.S. Patent 6,259,448 issued to McNally et al (hereinafter referred to as “McNally”). Claims 15-17 and 22-24 are rejected as being unpatentable over Butler, in view of Nanja, and further in view of McNally and U.S. Patent 5,887,170 issued to Ansberry et al. Applicants respectfully traverse these rejections.

Applicants first note that Nanja only qualifies as prior art under 35 U.S.C. §102(e). Nanja, which issued on June 20, 2006, was filed on September 15, 2000 and claims priority to a provisional application filed August 24, 2000. The present application was filed on June 22, 2001 and claims priority to a provisional application filed on November 14, 2000. Thus, Nanja issued after the filing date of the present application.

Nanja identifies a different inventive entity (Sekaran Nanja) than the inventive entity (Jagadish Bandhole, Sekaran Nanja, and Shan Balasubramaniam) identified in the present application. Accordingly, Nanja describes subject matter developed “by another.” MPEP §2136.04.

Nanja and the claimed subject matter in the present application were, at the time the invention in the application for patent was made, owned by the same entity or subject to assignment to the same entity, namely Jareva Technologies, Inc., of Sunnyvale, California. The assignment for Nanja is recorded at reel 013304, frame 0931, and the assignment for the present application is recorded at reel 012268 and frame 0942.

As 35 USC §103(c) states, “Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” The present application was filed after November 29, 1999 and thus § 103(c) applies. Accordingly, Applicants respectfully request the removal of Nanja from the 103(a) rejection, pursuant to §103(c).

Applicants also note that the cited art fails to teach or suggest the features of claim 1, which include:

allocating a dynamic computing environment using a first user interface, wherein
the dynamic computing environment comprises at least one resource of a
plurality of resources, and the dynamic computing environment is
allocated by virtue of allocating the at least one resource; [and]
executing an application on the at least one resource using either the first user
interface or the second user interface.

Many portions of Butler are cited (Office Action, p. 3) as teaching the feature of “allocating a dynamic computing environment using a first user interface” recited in claim 1; however, only col. 6, lines 34-47 and col. 23, line 64 - col. 24, line 65 provide any description of any action that could be interpreted as corresponding to the act of “allocating.” These portions of Butler describe how the memory allocated to members of a conference can be set dynamically and adjusted as members begin to share. For example, the cited portion of col. 6 recites:

In a preferred embodiment of the instant invention, the memory allocated to each member of the conference is now set dynamically such that each member is given a minimum allocation of memory which may be adjusted once that member begins to share. Further, since the memory allocation is now dynamic, the necessity for placing a maximum limit on the number of users of a conference is no longer required. Therefore, the system of the instant invention allows as many members in a conference as may be supported by the meeting or conference host's memory availability. As new members join a conference or as old members leave a conference, memory is dynamically allocated to or freed from that member without significant disruption to the overall operation of the system.

Thus, the cited portions of Butler simply describe dynamically allocating memory. These portions of Butler neither teach nor suggest that such dynamic allocation is done "using a first user interface." Furthermore, unlike the resource that is allocated in claim 1 of the present application, the dynamically allocated memory described in Butler does not appear to be a resource on which an application can be executed. In other words, while such a dynamically allocated memory could store an application, the application could not be executed upon the memory.

Similarly, with respect to claims 5 and 18, the cited art fails to teach or suggest "allocating a distributed computing environment by virtue of allocating a first user computer and a second user computer." The cited portions of Butler merely teach dynamically allocating memory and neither teach nor suggest allocating user computers. The cited portions of McNally also fail to teach or suggest such a feature, considered alone or in combination with Butler.

Accordingly, the cited art fails to teach or suggest these features of the claims. For at least the foregoing reasons, claims 1, 5, and 18 are patentable over the cited art. Claims 2-4 and 6-14 are patentable over the cited art for similar reasons. Claims 15-17 and 22-24 are patentable over the cited art for at least the reasons set forth with respect to claims 5 and 18 above.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5087.

Respectfully submitted,



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